

Remarks

Receipt of the Office Action of July 13, 2005 is gratefully acknowledged.

This Office Action re-opens prosecution and rejects pending claims 8 - 26 as unpatentable under 35 USC 103(a) over Shimura '826 in view of Budike, Jr.

This rejection is respectfully traversed.

As noted during the prior prosecution, the present invention as defined in claim 8 includes four (4) specifically defined steps, namely: a recording step; a transmission step; a counting step; and a cost calculating step. For the prior art to render claim 8 unpatentable, it must clearly teach each of the four(4) specifically defined steps. It is respectfully submitted that Shimura '826 and Budlike, Jr. when considered in combination, do not teach all four steps.

In applying Shimura '826, the examiner states on page 3 of the Office Action that Shimur counts "...the number of transmission operations," citing col. 4, lines 20 - 35.

Applicant has consulted col. 4, lines 20 - 35 of Shimura '826 and cannot find a mention of counting anything. These lines refer to "a vital sign sensor" for the patient terminal "for measuring a vital sign" of the patient and "a vital sign memory for storing the vital sign measured." In conjunction with this structure, there is noted "a vital sign collection unit" for "uploading the vital sign stored in said vital sign memory.." What this has to do with "counting the number of transmission operations" is not clear.


Regarding Budike, Jr, the examiner states that he teaches "...calculating the costs for the end customer on the basis of the number of the transmission operations," citing col. 7, lines 25 to col. 8, line 55.

Applicant has consulted this passage of Budike, Jr. as well and cannot find such a teaching. Budlike, Jr. does disclose in this passage a multi-utility energy control system with a control center computer connected to various utility consuming devices. The control computer provides access via the internet to alternate providers of various utilities such as electricity, steam, gas and other consumable fuels and utility materials. The system is formatted to purchase these resources in a real time environment, If the intent is rel time operation, it cannot be extended to an operation which requires counting and then calculating which need not be done in real time. There is in fact no calculation of costs for an end consumer on the basis of anything taught by Budike , Jr.

Without a teaching of calculating costs subsequent to counting a number of transmission operations in either Shimura '826 or Budike, Jr, there can be no basis for concluding that claim 8, and claim 26, which define these steps, and the claims which depend therefrom, are unpatentable under 35 USC 103.

In view of the foregoing, reconsideration and re-examination are respectfully requested and claims 8 - 26 found allowable.

Respectfully submitted,



Felix J. D'Ambrosio
Reg. No. 25,721

Date: November 14, 2005

BACON & THOMAS, PLLC
625 Slaters Lane, 4th Floor
Alexandria, VA 22314 - 1176
(703) 683-0500